

law would apply to those causes of action if Great Lakes does not prevail on its Motion for Summary Judgment.” ECF no. 81, p. 25.

The undersigned counsel for GLI has no recollection of making such a concession. As recollected by the undersigned counsel, the only thing said was that it was the holding of the First Circuit in the *Andersson* case that GLI’s choice of law clause does not bar state law bad faith claims. *Great Lakes Ins. SE v. Andersson*, 66 F.4th 20, 27 (1st Cir.2023). But, if the words alleged by RAIDERS were actually used, then undersigned counsel for GLI obviously misspoke and hereby files this Notice of Clarification to make clear that, contrary caselaw from the First Circuit notwithstanding, GLI has not, does not, and will not concede that the Pennsylvania state law claims asserted by RAIDERS are permitted under the terms of the choice of law clause. As made clear in other cases, GLI has consistently enforced the precise verbiage of this choice of law clause to dismiss state law bad faith claims on other occasions. It did so in this case. Waiver, which is the intentional relinquishment of a known right¹, cannot be applied where counsel makes a misstatement which is quickly corrected within only seven (7) days, as soon as the mistake is brought to his attention.

On the other hand, if the doctrine of waiver is up for discussion, then it is clearly RAIDERS which has waived this issue by failing to raise it at any time before its appeal to the Third Circuit. In fact, the Third Circuit has already expressly held that the result of this silence by RAIDERS is that any objection to the interpretation of the words of the choice of law clause has been waived. *Great Lakes Insurance SE v. Raiders Retreat Realty Co., LLC*, 47 F.4th 225, 230 (fn. 1) (3d

¹ *In re Bestwall LLC*, 47 F.4th 233, 242 (fn. 11) (3d Cir.2022), *Democratic Nat. Committee v. Republican Nat. Committee*, 673 F.3d 192, 205 (fn. 11) (3d Cir.2012), *Reynolds v. Ellingsworth*, 23 F.3d 756, 763 (3d Cir.1994), *Erie Telecommunications, Inc. v. City of Erie, Pa.*, 853 F.2d 1084, 1095 (3d Cir.1988).

Cir.2022). The time for RAIDERS to argue this point was three (3) years, two (2) months, and (3) weeks ago (1,174 days). As the Third Circuit has expressly held, that is certainly a waiver.

THE GOLDMAN MARITIME LAW GROUP

Attorneys for Plaintiff
233 Harvard Street, Suite 211
Brookline, MA 02446
C (617)671-8657
F (617)566-4292
E michael@goldmanmaritime.com

By: /s/ Michael I. Goldman
MICHAEL I. GOLDMAN

CASEY & BARNETT LLC

Attorneys for Plaintiff
1818 Bethlehem Pike
P.O. Box 27
Flourtown, PA 19031
Tel (646) 362-8925
Fax (212) 286-0261

By: /s/ George R. Zacharkow
George R. Zacharkow

Dated: May 13, 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Court using the CM/ECF System which will provide an electronic notice to all counsel, of record.

Respectfully submitted, this 13th day of May 2024.

**THE GOLDMAN MARITIME
LAW GROUP**

Attorneys for Plaintiff
401E. Las Olas Blvd., Suite 1400
Fort Lauderdale, FL 33301
Tel (954) 332-2448
Fax (954) 832-0878

By: /s/ Michael I. Goldman
MICHAEL I. GOLDMAN

CASEY & BARNETT LLC

Attorneys for Plaintiff
1818 Bethlehem Pike
P.O. Box 27
Flourtown, PA 19031
Tel: (212) 286-0225
Fax: (212) 286-0261

By: /s/ George R. Zacharkow
George R. Zacharkow